WTM/PS/17/IVD/ID-10/MAY/2012

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: PRASHANT SARAN, WHOLE TIME MEMBER

IN THE MATTER OF ADANI EXPORTS LIMITED

In respect of M/s Rajendra Jayantilal Shah

(SEBI Registration no.: INB 020109419 INS 011445116)

Date of hearing: **July 12, 2011**

Appearances

For Noticees: Mr. Deepak R. Shah, Advocate

For SEBI: Mr. Krishnanand Raghavan, Deputy General Manager
Mr. Bhagwandas Samariya, Assistant General Manager
Mr. Pradeep Kumar, Assistant Legal Adviser

ORDER

Under Regulation 28(2) of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') conducted investigation into dealings in the shares of Adani Exports Ltd. (hereinafter referred to as 'Adani') for the period from November 27, 2003 to December 23, 2003. The scrip of Adani, during the period of investigation was listed on the Bombay Stock Exchange (hereinafter referred to as 'BSE') and the National Stock Exchange (hereinafter referred to as 'NSE').

2. During the period of investigation, the price of the scrip on BSE increased from ₹209.55 as on November 27, 2003 to ₹443.10 as on December 23, 2003 after touching a high of ₹478 as on December 19, 2003 within a span of just 19 trading days. The total volume traded in the scrip of Adani during the period of investigation at BSE was 11,32,400 shares and out of this 3,42,780 shares, i.e., 30.27% was in the nature of synchronized/ reversal of trades involving certain clients/ brokers. At NSE, the total volume traded during the period of investigation was 38,91,856 shares and out of this 2,96,943 shares, i.e. 7.63% was in the nature of structured trades.

3. SEBI analyzed the trading details along with the data of the volumes contributed by the persons who had traded in the scrip. Investigation *inter alia* revealed that M/s Rajendra Jayantilal Shah (hereinafter referred to as the 'noticee'), a broker of the Ahmedabad Stock Exchange (SEBI Registration no. INB 020109419) and a sub-broker of ASE Capital Markets Limited (SEBI Registration no. INS 011445116) had traded in the scrip of Adani for its client namely V & S Intermediaries (hereinafter referred to as 'VSI') on BSE. The investigation *prima facie* found that the noticee had aided and abetted its clients in executing fictitious synchronized reversal of trades, which in turn had created the artificial volumes and contributed to the price rise in the scrip of Adani.

4. Based on the findings of investigation, SEBI initiated enquiry proceedings against the noticee in terms of the SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 (hereinafter referred to as 'Enquiry Regulations'), by appointing an Enquiry Officer under Regulation 5(1) of the Enquiry Regulations vide order dated December 14, 2005 read with subsequent order dated November 19, 2007 and November 12, 2009. SEBI appointed the Enquiry Officer, to enquire into the alleged violation of the provisions of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Markets) Regulations, 2003 (hereinafter referred to as 'PFUTP Regulations'), the Code of Conduct for the stock brokers under Schedule II of Regulation 7 of SEBI (Stock Brokers and Sub-brokers) Regulations, 1992 (hereinafter referred to as 'Broker Regulations') and Clause A(1),(2) and D(1),(4) and (5) of the Code of Conduct for sub-brokers under Schedule II of Regulation 15(1)(b) of the Broker Regulations. The Enquiry Officer/ Designated Authority (hereinafter referred to as the 'Enquiry Officer') submitted his Report dated March 19, 2010, in terms of Regulation 38(2) of the SEBI (Intermediaries) Regulations, 2008, whereby the noticee was held guilty of violating the provisions of Regulation 4(1),(2),(a),(b),(e),(g) and (n) of the PFUTP Regulations, Clause A(1),(3),(4) and (5) of the Code of Conduct for stock brokers under Schedule

II of the Regulation 7 of the Broker Regulations and Clause A(1),(2) and D(1),(4) and (5) of the Code of Conduct for Sub-brokers under Schedule II of Regulation 15(1)(b) of the Broker Regulations. However, he recommended no punitive action against the noticee as adjudication penalty was already imposed upon it for the same set of violations.

5. Subsequently, a show cause notice dated September 17, 2010, (hereinafter referred to as SCN') under Regulations 28(1) of the SEBI (Intermediaries) Regulations, 2008, was issued to the noticee, intimating it that SEBI is not in agreement with the penalty as recommended by the Enquiry Officer since the same is not commensurate with the alleged violation committed by it. The noticee was asked to show cause as to why a higher penalty should not be imposed upon it. The noticee was advised to reply to the SCN, together with the documents that it may choose to rely upon in support of its reply within twenty one days from the date of receipt thereof. It was also informed that in case of failure to reply, it would be presumed that it had no explanation to offer and SEBI shall be free to take such action in the manner as it deemed fit. A copy of the Enquiry Report was also forwarded to the noticee along with the said SCN.

6. No reply was received from the noticee. Considering the same, a reminder was issued to the noticee on November 04, 2010. Thereafter, the noticee vide its letter dated November 25, 2010, replied to the SCN. Before proceeding further, an opportunity of personal hearing was granted to the noticee on April 18, 2011. However, the noticee failed to turn up for the personal hearing. Another opportunity of personal hearing was granted to the noticee on July 12, 2011, in the interests of principles of natural justice. On the date fixed for the personal hearing, Mr. Deepak R. Shah, Advocate, appeared and made submissions.

7. I have carefully considered the Enquiry Report, the SCN issued to the noticee, the reply received, and all the material available on record. The submissions of the noticee in brief are:

- More than seven years have elapsed and he does not have the records of the case and hence unable to comment upon the same.
- In respect of the very same transaction, an adjudication order has already been passed whereby the penalty has been levied upon him. Therefore, there cannot be several penalties for the same violation.

8. I note that the noticee has not denied its trading in the scrip of Adani for its client namely VSI. The noticee in its reply has made a submission that it cannot be subjected to multiple proceedings of different nature for the very same set of transactions. I note that SEBI is empowered to initiate proceedings such as those initiated under Section 11B of the SEBI Act, enquiry, adjudication, prosecution etc., as may be warranted, to deal with the violations of the provisions of SEBI Act, Rules and Regulations made there under. Each of these proceedings, has different objectives i.e., adjudication proceedings under Chapter VIA of the SEBI Act is meant to penalise the accused by way of monetary penalty, pursuant to adjudication. Enquiry proceedings under the statute are contemplated against registered intermediaries, wherein pursuant to a thorough enquiry, penalties of suspension/ warning/ cancellation of registration of such registered intermediaries are ordered against them. I, therefore, do not find any infirmity about SEBI proceeding against the noticees under Enquiry Regulations and simultaneously pursuing adjudication.

9. After having dealt with the above submission, the issue that arises for my consideration is: Whether the noticee had aided and abetted its client and created artificial volumes/ prices in the scrip of Adani?

10. Whether the noticee had aided and abetted its client and created artificial volumes/ prices in the scrip of Adani?

a. I have seen the trading details of the noticee for its client in the scrip of Adani I note that the scrip of Adani was being traded both at BSE and NSE during the period of investigation. The table below provides the details of the trading in the scrip of Adani at BSE as the noticee had traded at BSE only.

Table A

	Broker	Sub-broker	Client
BSE	**ASE Capital Markets Ltd.**	**Rajendra J. Shah**	**V&S Intermediaries**
	ASE Capital Markets Ltd.	Ess Ess Intermediaries Ltd.	Samir P. Shah
	ASE Capital Markets Ltd.	Rajesh N. Jhaveri	Falguni Shah
	Mangal Keshav Securities	E. Stocks Inc.	Dilip C. Jain
	Vijay Bhagwandas Shah		Own/ director's account
	Sanchay Fincom Ltd.		Tejas Ghelani
	Naman Securities Ltd.		Ess Ess Intermediaries Ltd.

b. From the table A above, I note that the noticee had traded in the scrip of Adani for its client VSI. A summary of the trades of the noticee is given below:

Table B

Date	Bought Qty.	Bought by (Broker)	Bought from (Broker)	Sold Qty.	Sold by (Broker)	Sold to (Broker)
27/11/03 to 23/12/03	57,475	Falguni Shah (Rajesh N. Jhaveri/ ASE Capital)	VSI (Rajendra J. Shah/ ASE Capital)	57,490	Falguni Shah (Rajesh N. Jhaveri/ ASE Capital)	VSI (Rajendra J. Shah/ ASE Capital)

c. Having seen the table B above, I note that the trades of the noticee had matched with Ms. Falguni Shah trading through M/s Rajesh N. Jhaveri, a sub-broker of ASE Capital Markets Limited. A date-wise summary of trading between these two has been reproduced below for ready reference:

Table C

Date	Buy Client	No. of trades	Qty.	Sell Client	% to day Qty. traded
27/11/03	V & S	39	5,000	Falguni	**31.44**
	Falguni	29	5,000	V & S	
28/11/03	V & S	59	5,000	Falguni	**30.01**
	Falguni	38	5,000	V & S	
1/12/03	V & S	72	5,000	Falguni	**28.96**
	Falguni	37	5,000	V & S	
2/12/03	V & S	119	3,990	Falguni	**26.00**
	Falguni	58	4,000	V & S	
3/12/03	V & S	48	5,000	Falguni	**24.75**
	Falguni	38	5,000	V & S	
4/12/03	V & S	57	5,000	Falguni	**25.71**
	Falguni	39	5,000	V & S	
5/12/03	V & S	28	4,975	Falguni	**23.14**
	Falguni	48	5,000	V & S	
8/12/03	V & S	56	5,000	Falguni	**37.87**
	Falguni	39	5,000	V & S	
9/12/03	V & S	10	1,500	Falguni	**6.04**
	Falguni	19	1,500	V & S	
10/12/03	V & S	36	3,000	Falguni	**13.60**
	Falguni	38	3,000	V & S	
11/12/03	V & S	36	4,000	Falguni	**21.53**
	Falguni	38	4,000	V & S	
12/12/03	V & S	38	5,000	Falguni	**23.13**

	Falguni	29	5,000	V & S	
15/12/03	V & S	56	5,000	Falguni	**21.30**
	Falguni	56	5,000	V & S	
Total		**1,160**	**1,14,965**		**22.98**

From the above, I note that there was almost exact reversal of similar quantity of shares of Adani between the noticee and the counterparty continuously. Further, almost all the trades done by the noticee were squared off on the same day. It is seen that the trades were so well planned that the same number of shares went back to the original seller at the end of the day on most of the occasions. This pattern of trading was continued by the noticee on thirteen days during the period of investigation. The sample of trades as on November 28, 2003 also relied upon by the Enquiry Officer has been reproduced below for ready reference:

Table D

Trade			Buy				Sell				Time diff
Time	Qty.	Price	Client Code	Time	Rate	Qty.	Client Code	Time	Qty.	Rate	
10:47:47	151	213.05	V&S	10:47:47	213.05	1500	Falguni	10:47:47	1500	213.05	0:00:00
10:47:47	151	213.05	V&S	10:47:47	213.05	1500	Falguni	10:47:47	1500	213.05	0:00:00
10:47:47	151	213.05	V&S	10:47:47	213.05	1500	Falguni	10:47:47	1500	213.05	0:00:00
10:47:47	151	213.05	V&S	10:47:47	213.05	1500	Falguni	10:47:47	1500	213.05	0:00:00
10:47:47	151	213.05	V&S	10:47:47	213.05	1500	Falguni	10:47:47	1500	213.05	0:00:00
10:47:47	151	213.05	V&S	10:47:47	213.05	1500	Falguni	10:47:47	1500	213.05	0:00:00
10:47:47	151	213.05	V&S	10:47:47	213.05	1500	Falguni	10:47:47	1500	213.05	0:00:00
10:47:47	151	213.05	V&S	10:47:47	213.05	1500	Falguni	10:47:47	1500	213.05	0:00:00
10:47:47	141	213.05	V&S	10:47:47	213.05	1500	Falguni	10:47:47	1500	213.05	0:00:00
11:46:25	251	213.10	Falguni	11:46:25	213.10	2500	V&S	11:46:21	2500	213.10	0:00:04
11:46:25	4	213.10	Falguni	11:46:25	213.10	2500	V&S	11:46:21	2500	213.10	0:00:04
11:46:25	247	213.10	Falguni	11:46:25	213.10	2500	V&S	11:46:21	2500	213.10	0:00:04
11:46:25	8	213.10	Falguni	11:46:25	213.10	2500	V&S	11:46:21	2500	213.10	0:00:04
11:46:25	243	213.10	Falguni	11:46:25	213.10	2500	V&S	11:46:21	2500	213.10	0:00:04
11:46:25	12	213.10	Falguni	11:46:25	213.10	2500	V&S	11:46:21	2500	213.10	0:00:04
11:46:25	239	213.10	Falguni	11:46:25	213.10	2500	V&S	11:46:21	2500	213.10	0:00:04
11:46:25	16	213.10	Falguni	11:46:25	213.10	2500	V&S	11:46:21	2500	213.10	0:00:04
11:46:25	235	213.10	Falguni	11:46:25	213.10	2500	V&S	11:46:21	2500	213.10	0:00:04
11:46:25	20	213.10	Falguni	11:46:25	213.10	2500	V&S	11:46:21	2500	213.10	0:00:04
11:46:25	231	213.10	Falguni	11:46:25	213.10	2500	V&S	11:46:21	2500	213.10	0:00:04
11:46:25	24	213.10	Falguni	11:46:25	213.10	2500	V&S	11:46:21	2500	213.10	0:00:04
11:46:25	227	213.10	Falguni	11:46:25	213.10	2500	V&S	11:46:21	2500	213.10	0:00:04
11:46:25	28	213.10	Falguni	11:46:25	213.10	2500	V&S	11:46:21	2500	213.10	0:00:04
11:46:25	223	213.10	Falguni	11:46:25	213.10	2500	V&S	11:46:21	2500	213.10	0:00:04
11:46:25	32	213.10	Falguni	11:46:25	213.10	2500	V&S	11:46:21	2500	213.10	0:00:04
11:46:25	219	213.10	Falguni	11:46:25	213.10	2500	V&S	11:46:21	2500	213.10	0:00:04
11:46:25	36	213.10	Falguni	11:46:25	213.10	2500	V&S	11:46:21	2500	213.10	0:00:04
11:46:25	205	213.10	Falguni	11:46:25	213.10	2500	V&S	11:46:21	2500	213.10	0:00:04

The table D above shows that the trades were matched continuously between two set of clients with startling proximity in the timing, price and quantity, even as these were executed on the screen of the exchange. Considering the facts

and circumstances described above, I am of the view that matching of the trades was not accidental/ co-incidence; rather, it shows concerted efforts to get the orders matched with each other.

d. This makes it clear that the transactions were designed before their execution and was not a natural outcome of the exchange trade matching system. I also note the following facts from the Enquiry Report:

- A total of 1160 synchronized/ reversal of trades were executed by the noticee in the scrip of Adani for a total volume of 1,14,965 shares accounted for 10.15% of the market volume.
- On 6 trading days, the contribution of the noticee towards the synchronized reversal of trades to the quantity traded on each day was more than 25% and on 5 days it was between 20% to 25%.
- Out of the total trading conducted by the noticee on behalf of VSI, 94.15% was synchronized in nature.
- Out of total of 145 orders placed by the noticee on 13 trading days, 52 orders were placed with a time difference of zero second thereby constituting 35.80% of the total order placed by the noticee, 50 orders were placed with a time difference of one second, 20 orders were placed with time difference of two seconds, 8 with time difference of three seconds. The delivery position of the noticee was nil on almost each day.

e. I note that while continuously trading in the scrip of Adani, the noticee had placed many orders at progressively higher prices. At this stage, I note that the price of the scrip of Adani increased from ₹204.90 as on November 27, 2003 to ₹441.90 as on December 23, 2003 within a span of 19 trading days.

f. The continuous matching of trades without much time difference shows that the trades entered by the noticee were structured and also in the nature of reversal. I note the finding of the Enquiry Officer regarding no direct link between the noticee and its client. However, I observe that the noticee had indulged in the trading pattern as discussed above with regularity, which also projected volumes in the scrip in a way that was not market determined. Such

transactions are clearly not genuine and seen as entered for creating misleading appearance of trading in the scrip. Such pattern also creates an impression of active trading in the scrip.

g. Further, it has been submitted that M/s Rajendra Jayantilal Shah was doing jobbing transactions in the scrip of Adani. Having considered the facts and circumstances of the present case, I am not convinced with the argument of the noticee as the scrip of Adani was not so liquid and no genuine day trader will want to trade in scrip where it is difficult to settle the position at the end of the day. If a client still wants to trade as day trader in illiquid scrip, then such desire of the client to trade, should be a matter of worry for the broker. In my view, had the noticee taken necessary precautions beforehand, then the same could have prevented its client from succeeding in its game plan. Therefore, the noticee has failed to prevent its client from carrying out its nefarious design and had thus aided and abetted it in creating the artificial volumes in the subject scrip.

h. The above discussed role of the noticee shows that it played a vital role in the game plan of the manipulation of the trading in the scrip of Adani. The noticee by carrying out synchronized reversal transactions created artificial liquidity in the scrip of Adani and rigged the price upwards. Thus, from the aforesaid acts of the noticee, I am of the view that the charge of the violation of the provisions of Regulation 4(1), 4(2)(a),(b),(e),(g) and (n) of the PFUTP Regulation stands established as against it.

11. From the above discussion and considering the nature of the trades, I note that the noticee indulged in the pattern of trades which were not genuine, but manipulative as discussed above. Thus, I find that the noticee has failed to perform its statutory duties, which are expected from a prudent stock broker who has a duty not only towards its client but also towards maintaining the integrity of the securities market. A registered intermediary is expected to maintain absolute compliance of the rules/ regulations and the directives issued by SEBI. In view of the foregoing, I find the noticee, guilty of the

violation of the provisions of Clauses A(1),(2),(3),(4) and (5) of the Code of Conduct prescribed for stock brokers in Schedule II under Regulation 7 of the Broker Regulations. The noticee is further guilty of violating the schedule II under Regulation 7 of the provisions of Clause A(1),(2), D(1),(4) and (5) of the Code of Conduct prescribed for sub-broker in Schedule II under Regulation 15 of the Broker Regulations.

12. As regards the submission of the noticee regarding delay in the proceedings, I note that neither a time line is fixed for such cases nor can the delay justify exoneration.

13. I note that pursuant to the notification of the SEBI (Intermediaries) Regulations, 2008, the Enquiry Regulations have been repealed and in terms of Regulation 38(2) of the SEBI (Intermediaries) Regulations, 2008, notwithstanding such repeal, any enquiry commenced under the Enquiry Regulations, shall be deemed to have been commenced under the corresponding provisions of the SEBI (Intermediaries) Regulations, 2008.

14. Therefore, taking into consideration the facts and circumstances of the case, I in exercise of the powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992 read with Regulation 28(2) Securities and Exchange Board of India (Intermediaries) Regulations, 2008, hereby suspend the certificate of registration of M/s Rajendra Jayantitlal Shah (SEBI Registration nos. INB 020109419 and INS 011445116) (PAN: ACIPS 6614E) for a period of two months.

15. This order shall come into force on expiry of twenty one days from the date of this order.

DATE : MAY 3, 2012
PLACE: MUMBAI

PRASHANT SARAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA